

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-11927 of 2022 (O&M)
Date of decision : September 1st, 2022

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Dharam Pal

.....Petitioner

vs.

State of Haryana

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Keshav Pratap Singh, Advocate for the petitioner.

Mr. Brijesh Sharma, Assistant Advocate General,
Haryana.

Mr. Krishan Sharma, Advocate for the complainant.

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H. S. Madaan, J.

1. This is the third petition for regular bail filed by Dharam Pal, an accused in FIR No. 285, dated 5.12.2017, for offences under Sections 148, 149, 302, 120-B, 216 IPC and Section 25 of Arms Act, registered at Police Station Hassanpur, District Palwal. The first two petitions filed by him in this Court bearing No. CRM-M-19550 of 2018 and CRM-M-44354 of 2018 had been withdrawn on 28.5.2018 and 10.2.2020, respectively. Copies of the orders passed thereon have been placed on record as Annexures P-8 and P-9 respectively.

2. Briefly stated, facts of the case as per the prosecution

story are that, complainant Sandeep son of Santraj, in his complaint submitted to the police, stated that on 5.12.2017, his father Santraj had gone to village Tappa to participate in a meeting of the Panchayat. The complainant, Sachin son of Jasvir, Manoj son of Karamvir, Sonu son of Santraj had accompanied Santraj – deceased there. When proceedings of Panchayat started, a vehicle of white colour reached there. Sante and Jitu, both sons of Dharampal-accused, alongwith Dharampal himself, Jairam son of Ramsarup, Rajkumar son of Harichand, all residents of village Bilochpur were in that vehicle. Kapil son of Rajvir, Rambir son of Ramphal, Pawan son of Ramvir, all residents of village Bilochpur. Suledin son of Rudhar, resident of Pirgarhi, were in another vehicle. Dharam Pal and Jairam exhorted to their co-accused that Santraj – Chairman, claimed himself to be a big Leader and he should not be spared on that day. Thereafter, Jairam, accused Dharampal and Rajkumar caught hold of Santraj. Sante and Jitu sons of Dharampal fired shot at Santraj. Santraj suffered gun shot injury on head and died at the spot. Thereafter, accused caught Birpal, who was also shot dead. Then all the accused left the spot.

3. On the basis of such written complaint submitted by complainant Sandeep, formal FIR was registered. The investigation in the case started. Accused were arrested in this case.

4. The accused had filed repeated applications for bail before the Court of Sessions at Palwal, but was unsuccessful.

Thereafter Dharampal had approached this Court on two earlier

occasions by filing petitions for regular bail, but on both the occasions, he had withdrawn those petitions, as detailed above. Now he has come to this Court for the third time, by way of filing the petition in question, notice of which was given to the State. The State, as well as, counsel for the complainant have put in appearance.

5. I have heard learned counsel for the petitioner, learned State counsel, learned counsel for the complainant, besides going through the record.

6. Learned counsel for the petitioner has stated that petitioner – Dharam Pal is aged about 72 years, he is in custody since 23.1.2018 i.e. for more than 4 years and 8 months; the trial is moving at a very slow pace and its conclusion is likely to take some time. According to the prosecution story, the role of the petitioner is, as regards raising of lalkara and catching hold of arm of deceased Santraj only and there are no allegations of his having fired shots on any of the deceased. Therefore, benefit of regular bail be given to him, more particularly, when similarly placed accused, namely, Raj Kumar @ Rajan, has also been granted such benefit by a Co-ordinate Bench of this Court, while allowing CRM-M-44350 of 2020 on 19.1.2022, copy of that order being Annexure P-5.

7. Whereas learned State counsel has opposed the request for regular bail stating that the present petitioner had main role to play in the whole incident since there was enmity between him and the deceased, as a result of which the petitioner alongwith his sons and other co-accused had arrived at the spot and then Sante and Jitu

sons of Dharam Pal alongwith Suledin son of Rudhar had shot dead Santraj as well as Birpal.

8. Counsel for the petitioner has stated that the petitioner would abide by any term or condition imposed by this Court, if the concession of regular bail is granted to the petitioner.

9. After hearing the rival contentions, I find that the present petition calls for acceptance for various reasons; firstly, the petitioner is of advanced age of 72 years.

10. Secondly, he is in custody from the date of his arrest i.e. from 23.1.2018 till date, meaning thereby for a period of more than 4 years and 7 months.

11. Thirdly, the co-accused of the petitioner, namely, Raj Kumar @ Rajan, to whom almost similar role has been attributed, has since been granted the concession of regular bail by this Court, while allowing CRM-M-44350 of 2020, filed by him, decided on 19.1.2022.

12. Fourthly, the pace at which the trial is going on, there is little possibility of the said trial being concluded in near future.

13. Fifthly, statements of the material witnesses, i.e. PW-2 Sandeep Bainsla and PW-3 Ravinder, have since been recorded in the trial Court, since copies of such statements have been placed on record by learned counsel for the petitioner. In that way, there is no occasion for the petitioner trying to give any threat or inducement to the material prosecution witnesses.

14. Therefore, the petition is allowed and be petitioner is

ordered to be released on bail during pendency of the trial, subject to his furnishing bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate, Palwal, subject to the following conditions:-

- (i) he shall appear in the Court on each and every date of hearing;
- (ii) he shall not give any threat or intimidation of the prosecution witnesses
- (iii) he shall not leave India without prior permission of the Court;
- (iv) he shall surrender his passport before the Investigating officer, if he has got one, otherwise to furnish affidavit in that regard; and
- (v) he shall get his presence marked in the local police Station on every Saturday of the week in the forenoon and he will furnish a declaration that he has not indulged in any criminal activity in the meanwhile.

15. In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioner does not abscond and interfere in the trial. In case the petitioner violates any term and condition on which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of bail.

16. It may be mentioned here that nothing discussed hereinabove, shall have any bearing on the merits of the case.

September 1st, 2022
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(H.S. Madaan)
Judge

Whether speaking / reasoned

Yes / No

Whether reportable

Yes / No